

Under clause 8 of Rule XII, executive communications were taken from the Speaker's table as follows:

COMMUNICATION 02108 from the

Acting Under Secretary for Acquisition, Technology and Logistics,
Department of Defense

transmitting

the annual report on operations of the National Defense Stockpile (NDS), detailing NDS operations during FY 2004 and providing information with regard to the acquisition, upgrade, and disposition of NDS materials, as well as the financial status of the NDS Transaction Fund for FY 2004, pursuant to 50 U.S.C. 98h-2.

Referred to the Committee on Armed Services. May 24, 2005.



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

APR 11 2005

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515-6501

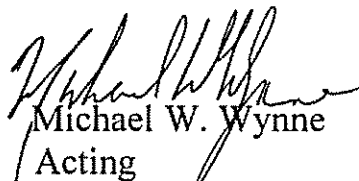
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Dear Mr. Speaker:

This letter transmits the annual report on operations of the National Defense Stockpile (NDS) in accordance with section 11(a) of the Strategic and Critical Materials Stock Piling Act as amended (50 U.S.C. section 98h-2). The report details NDS operations during Fiscal Year 2004 and provides information with regard to the acquisition, upgrade, and disposition of NDS materials, as well as the financial status of the NDS Transaction Fund for Fiscal Year 2004. The Defense Logistics Agency performs operations and management functions for NDS.

A copy of this letter and the report is being sent to the President of the Senate and appropriate congressional committees.

Sincerely,


Michael W. Wynne
Acting

Enclosure:
As stated

RECEIVED
25 APR 26 PM 5:10
SPEAKER'S ROOMS
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**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107 (Continued)**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
2. Bauxite					
Bauxite Refractory	LCT		0 ^a	\$0.000	
3. Beryllium					
Beryl Ore (11% BeO)	ST		4,114	\$0.325	4,114
Beryllium Copper Master Alloy	ST		0 ^a	\$0.000	
Beryllium Metal Vac Cast	ST		74	\$11.600	74
Beryllium Metal HPP	ST	50	171 ^b	\$68.400	121
4. Chromite - Refractory Grade					
	SDT		0	\$0.000	
5. Chromium					
Chromite Chemical Grade	SDT		0 ^a	\$0.000	
Chromium - Ferro High Carbon	ST		450,236	\$320.223	450,236
Chromium - Ferro Low Carbon	ST		212,164	\$235.165	212,164
Chromium Metal	ST		7,352	\$26.375	7,352
6. Cobalt					
	LB Co		5,861,383	\$62.041	5,861,383

**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107 (Continued)**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
7. Columbium					
Columbium Concentrates	LB Cb		681,122	\$0.000	681,122
Columbium Metal Ingots	LB Cb		60,750	\$0.911	60,750
8. Diamond Industrial Stones	ct		519,718	\$5.197	519,718
9. Fluorspar					
Acid Grade	SDT		4,884	\$0.302	4,884
Metallurgical Grade	SDT		92,267	\$3.249	92,267
10. Germanium Metal	KG		34,198	\$22.491	34,198
11. Iodine	LB		2,601,950	\$13.449	2,601,950
12. Jewel Bearings	PC		82,051,558	\$0.000	82,051,558
13. Lead	ST		55,996	\$27.315	55,996
14. Manganese Dioxide					
Battery Grade Natural	SDT		23,790	\$0.548	23,790
Battery Grade Synthetic	SDT		3,011	\$4.517	3,011

**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107 (Continued)**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
15. Manganese					
Manganese Ore Chemical Grade	SDT		74,898	\$1.689	74,898
Manganese Ore Metallurgical Grade	SDT		689,760	\$11.697	689,760
Manganese Ferro High Carbon	ST		749,461	\$339.528	749,461
Manganese Metal Electrolytic	ST		0 ^a	\$0.000	
16. Mercury	LB		9,781,617	\$0.000	9,781,617
17. Mica					
Muscovite Block Stained and Better	LB		1,947 ^b	\$0.001	1,947
Muscovite Film 1st and 2nd Quality	LB		0 ^a	\$0.000	
Phlogopite Splittings	LB		3,325	\$0.000	3,325
18. Platinum Group Metals					
Iridium	Tr Oz		16,118	\$1.401	16,118
Platinum	Tr Oz		20,880	\$9.948	20,880
Palladium	Tr Oz		24,261	\$9.302	24,261
19. Quartz Crystals	LB	15,520	15,953 ^b	\$0.000	433

**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107 (Continued)**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
20. Quinidine	Av Oz		20,082	\$0.000	20,082
21. Ricinoleic/Sebacic Acid Prod.	LB		0 ^a	\$0.000	0
22. Talc - Steatite Block & Lump	ST		956	\$0.153	956
23. Tantalum Group					
Tantalum Carbide Powder	LB Ta		12,158	\$0.365	12,158
Tantalum Metal Powder	LB Ta		34,607	\$1.711	34,607
Tantalum Metal Ingots	LB Ta		20,388	\$1.091	20,388
Tantalum Minerals	LB Ta		1,118,885	\$25.831	1,118,885
Tantalum Oxide	LB Ta		49,879	\$1.995	49,879
24. Thorium Nitrate	LB		7,096,154	\$0.000	7,096,154
25. Tin	MT		25,053	\$122.228	25,053
26. Titanium Sponge	ST		2,783	\$10.204	2,783
27. Tungsten Group					
Tungsten Ferro	LB W		513,947	\$1.242	513,947

**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107 (Continued)**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
Tungsten Metal Powder	LB W		1,019,666	\$3.223	1,019,666
Tungsten Ores & Concentrates	LB W		62,551,437	\$165.805	62,551,437
28. Vegetable Tannin Extract					
Chestnut	LT		144	\$0.039	144
Quebracho	LT		13,374	\$0.755	13,374
Wattle	LT		638	\$0.036	638
29. Zinc	ST		71,421	\$57.437	71,421
Totals: Strategic and Critical Materials Inventory Value				\$1,570.927	
Others ^c				\$0.026	
Total Value^a				\$1,570.953	

a. Zeros indicate this material was sold out in FY 04.

b. The 2003 Requirements Report to the Congress proposed the following material as a requirement.

171 ST Hot Pressed Powder (HPP) Beryllium Metal

300 LB Mica Block

15,520 LB Quartz

c. In addition to the materials in this Table, the NDS inventory also contains celestite, mica (muscovite block, stained and lower) and Talc (ground) valued at \$0.026 million. These materials have been determined to be neither strategic nor critical.

TABLE 6: Inventory Sold But Not Shipped
(Shipping to occur in accordance with
specific contract provisions)
As of September 30, 2004

Material	Unit	Quantity
Aluminum Oxide Abrasive Grain	ST	2,476.37
Bauxite, Metallurgical Grade - Jamaican Type	LDT	4,159,128.26
Bauxite, Metallurgical Grade - Surinam Type	LDT	220,237.71
Bauxite, Refractory	LDT	24,021.72
Beryl Ore	ST	1,650.46
Beryllium Copper Master Alloy	ST	1,006.15
Beryllium Metal	ST	25.00
Chromite, Chemical Grade	SDT	51,082.36
Chromite, Refractory Grade	SDT	133,284.91
Chromium, Ferro, High Carbon	ST	4,000.00
Chromium, Ferro, Low Carbon	ST	24,681.67
Cobalt	LB Co	101,797.00
Fluorspar Acid Grade	ST	57,934.00
Germanium	KG	540.00
Graphite Ceylon Amorphous (Lump)	ST	56.00
Graphite Malagasy (Crystalline)	ST	896.00
Lead	ST	17,696.28
Manganese, Chemical Grade	SDT	4,420.09
Manganese Dioxide, Battery Grade, Natural	SDT	5,501.17
Manganese Metallurgical Grade	SDT	111,809.41
Mica, Muscovite Block	LB	15,863.00
Mica, Muscovite Splittings	LB	265,700.00
Mica, Phlogopite Block	LB	37,459.00
Quartz Crystals	LB	95,577.00
Tantalum Minerals	LB Ta	43,621.00
Tin	MT	9,763.54

TABLE 6: Inventory Sold But Not Shipped (Continued)
(Shipping to occur in accordance with
specific contract provisions)
As of September 30, 2004

Material	Unit	Quantity
Titanium Sponge	ST	2,061.50
Tungsten, Ferro	LB W	6,735.00
Vegetable Tannin Quebracho	LT	6,548.70
Vegetable Tannin Wattle	LT	1,060.56
Zinc	ST	14,816.65

APPENDIX F: ABBREVIATIONS USED IN THIS REPORT

AMA LB	Anhydrous Morphine Alkaloid Pound	LCT	Long Calcined Ton
AMP	Annual Materials Plan	LDT	Long Dry Ton
Av Oz	Avoirdupois Ounce (28.350 Grams)	LT	Long Ton
DLA	Defense Logistics Agency	MT	Metric Ton
DoD	Department of Defense	NDS	National Defense Stockpile
DNSC	Defense National Stockpile Center	NSG	Non-Stockpile Grade
FL	Flask (76 Pounds)	PC	Piece
HC	High Carbon	S&CM	Strategic and Critical Materials
KG	Kilogram	SDT	Short Dry Ton
ct	Carat	ST	Short Ton
LB	Pound	ST Be	Short Tons of Contained Beryllium
LB Cb	Pounds of Contained Columbium	ST Cr	Short Tons of Contained Chromium
LB Co	Pounds of Contained Cobalt	ST Mn	Short Tons of Contained Manganese
LB Ta	Pounds of Contained Tantalum	ST V	Short Tons of Contained Vanadium
LB W	Pounds of Contained Tungsten	Tr Oz	Troy Ounce

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APPENDIX G: BIDDERS INFORMATION

Mailing Lists

Individuals or companies interested in buying from or selling to the Defense National Stockpile Center (DNSC) may request to be placed on a mailing list for the material(s) or services they wish to buy or sell. The request should contain the following information:

Name
Title
Company
Mailing address
Telephone
Facsimile
Materials or Services interested in

Requests to be added to mailing lists should be sent to:

Defense National Stockpile Center
ATTN: DNSC-C
Suite 3229
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6223

SALES

Materials are offered for sale when they are excess to the goal, authorized for sale by the Congress, and are listed on the current fiscal year's Annual Materials Plan. To the extent possible, sales are conducted competitively. DNSC carefully monitors prices and other market conditions to ensure that sales do not unduly disrupt the market and that there is a fair return to the taxpayer. Individuals and companies on the mailing list for a material being sold automatically receive the necessary documents on which to submit an offer.

TYPES OF SALES

Scaled Bid: An Invitation-for-Bids (IFB) containing all the terms and conditions of the sale is sent to all potential bidders. Bids are opened publicly and evaluated without discussions with bidders. Awards are made only to the responsive, responsible bidders whose bids conform to the IFB and are deemed advantageous to the Government. Award is based on price alone.

Negotiated: The solicitation does not predetermine all the terms and conditions of the final contract. Price and other terms are negotiable. Buyers make an initial offer and an award may be made without further discussions or the Government may negotiate terms. Where discussions have taken place, each offeror is asked to submit a "best and final offer," at which point discussions end. Offers are then evaluated and an award is made to the responsible offeror whose offer is considered most advantageous to the Government.

Basic Ordering Agreement (BOA): DNSC successfully continued the use of the Basic Ordering Agreement sales method in Fiscal Year 2004. A total of seven commodity groups were offered for sale using the BOA method in FY

2004: platinum group metals, cobalt, ferrochromium, lead, tantalum, tin, and zinc. In FY 2005, Iodine is being added to the list of commodities available under the BOA format. The BOA is a written instrument of understanding that contains a description of the material offered for sale and the terms and conditions negotiated between the Contracting Officer and the Contractor. The terms and conditions will apply to all resulting contracts awarded under the BOA. Under the BOA process, DNSC offers firms an opportunity to quote on materials periodically, in response to market and customer needs. Quoters must be pre-qualified by submitting a completed BOA package prior to quoting. All pre-qualified quoters are invited to quote. Award is based on prices offered, as may be adjusted by special terms negotiated previously. Quotes may be submitted by facsimile message or online through the DNSC website, <https://www.dnsc.dla.mil>.

Strategic Supply Alliance (SSA): In June 2003, DNSC introduced its latest sales method, the Strategic Supply Alliance. The first commodity group selected for this new approach was the tungsten ores and concentrates. DNSC expanded its SSA offerings to the vegetable tannin extracts in FY 2004. While the format of the SSA is similar to that of the BOA, under the SSA, DNSC is able to offer material seven days a week, twenty-four hours a day. Material offered for sale is posted on DNSC's website and quotes are only accepted electronically from quoters that have been pre-qualified by submitting a completed SSA package prior to quoting. All pre-qualified quoters are invited to quote. As with the BOA offerings, award is based on prices offered, as may be adjusted by special terms negotiated previously.

METHODS OF PAYMENT

Payment for stockpile materials is due prior to delivery unless other options are specified in negotiated or BOA contracts.

FINANCIAL EXPOSURE LIMIT

In Fiscal Year 2004, DNSC continued the practice of determining a financial exposure limit for each contractor seeking to participate in the sale of stockpile materials. Prior to awarding its sales contracts, DNSC establishes a financial exposure limit (the maximum level of business DNSC will allow) for a contractor based on financial data provided by the firm. If a Contractor reaches its financial exposure limit, subsequent sales may cease until the Contractor either performs satisfactorily its existing contracts or provides additional information which justifies DNSC in increasing the exposure limit.

ACQUISITIONS (PURCHASES)

To the extent possible, DNSC purchases supplies and services competitively. While there are no plans to purchase new stockpile materials in Fiscal Year 2005, DNSC will contract for the purchase of repair and alteration (construction), maintenance, other non-personal services, and supplies at the various Stockpile storage locations across the United States. Solicitation documents contain specific information about planned projects and notices of these solicitations are published in FedBizOpps. Firms on the mailing lists for the supplies and services being acquired will automatically receive solicitations when they are issued. Those not on the mailing list may request the solicitations from DNSC. A review of program information may be found on the internet at <https://www.dnsc.dla.mil> or questions may be directed to agricola@dlamail.

TYPES OF PROCUREMENTS

Sealed Bid: This is the method usually employed when the Government's requirements can be precisely described, when pre-award discussions are not necessary, when more than one bid is expected, and when award will be based on price and price-related factors. DNSC will issue an Invitation-for-Bids (IFB) describing the supplies or services being purchased and the specific procedures for submitting a bid. Bids are opened publicly and evaluated without discussions with bidders. Contracts are awarded to the responsible bidders whose bids conform to the terms of the IFB and are deemed advantageous to the Government.

Negotiated: Negotiated procurements involve the submission of initial proposals to the Government in response to a Request for Proposals (or Request for Quotations for a smaller dollar value procurement) for the particular supply or service. This method permits discussions by the parties and allows the offeror/quoter to revise the initial proposal or quotation prior to the award of the contract. Negotiations can include discussions on price, delivery schedule,

technical requirements, type of contract, or other terms of the proposal. Price is not necessarily the most important factor and awards may be made on other than price and price-related factors; for example, a superior technical approach.

METHODS OF PAYMENT

The Contractor is paid by Government electronic funds transfer or Government purchase card for the supplies or services received and accepted by DNSC.

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APPENDIX H: SUBSCRIPTION SERVICES

Subscriptions to this Report

Members of the strategic and critical materials community in either the government or the private sector may receive a copy of the Strategic and Critical Materials Report to the Congress.

To begin or renew a subscription to this annual report, mail or fax your name, title, organization, mailing address, and ZIP code to us.

Subscription Request	
Please Type or Print:	Mail or Fax to:
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(Title)	Stockpile Report Subscriptions
(Organization)	ATTN: DNSC-R, Suite 3229
(Mailing Address)	8725 John J. Kingman Road
(City, State, Zip Code)	Fort Belvoir, VA 22060-6223
(Country)	Fax: (703) 767-6528
(Phone Number)	For information, contact: Victoria Gallahan (703) 767-5500 email: victoria.gallahan@dla.mil

**Defense National Stockpile Center
8725 John J. Kingman Road
Suite 3229
Fort Belvoir, VA 22060-6223
(703) 767-5500
FAX (703) 767-5538 or (703) 767-3316**

Administrator	767-5500
Cornel A. Holder	
Deputy Administrator	767-5500
Essie A. Schloss	
Stockpile Contracts	767-5475
Cheryl A. Deister, Director	
Stockpile Operations	767-6518
Lance Kualii, Director	
Office of Counsel	
Scott Romans, Counsel	767-7647
Environmental Management & Quality Assurance	767-6522
F. Kevin Reilly, Director	
Planning and Market Research	
Frank Ringquist, Director	767-6479
	767-6894
Resource Management	767-5513
Cheryl A. Kates, Director	767-5524
	767-5516
DNSC Home Page:	https://www.dnsc.dla.mil
DNSC e-mail:	agricola@dla.mil

CONSOLIDATED APPROPRIATIONS ACT, 2004

Public Law 108-199 (HR 2673)

January 23, 2004

DIVISION H—MISCELLANEOUS APPROPRIATIONS AND OFFSETS

(INCLUDING RESCISSIONS OF FUNDS)

(INCLUDING TRANSFERS OF FUNDS)

SEC. 113. (a) The Secretary of Defense shall study issues related to the consolidation of the storage of mercury contained in the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) and report to Congress on June 1, 2004, on the results of the study.

(b) A decision to consolidate the storage of mercury to a site that currently does not store mercury contained in the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) shall occur no earlier than 180 days after the date of the report required in subsection (a).

APPENDIX D: BOB STUMP DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Public Law 107-314

December 2, 2002

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) **OBLIGATION OF STOCKPILE FUNDS** - During fiscal year 2003, the National Defense Stockpile Manager may obligate up to \$76,400,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS** - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS** - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

EXCERPTS FROM THE DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Public Law 107-107, December 28, 2001

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) **TRANSFER AUTHORITY.**—To the extent provided in appropriations Acts, not more than \$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 2002 in amounts as follows:

- (1) For the Army, \$50,000,000.
- (2) For the Navy, \$50,000,000.
- (3) For the Air Force, \$50,000,000.

(b) **TREATMENT OF TRANSFERS.**—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.

Sec. 3304. Revision of limitations on required disposals of certain materials in National Defense Stockpile.

Sec. 3305. Acceleration of required disposal of cobalt in National Defense Stockpile.

Sec. 3306. Restriction on disposal of manganese ferro.

SEC. 3301. DEFINITIONS.

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term “Market Impact Committee” means the Market Impact Committee appointed under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) **OBLIGATION OF STOCKPILE FUNDS.**—During fiscal year 2002, the National Defense Stockpile Manager may obligate up to \$65,200,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.**—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS.**—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) **DISPOSAL AUTHORIZED.**—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials contained in the National Defense Stockpile. The materials subject to disposal under this subsection and the quantity of each

material authorized to be disposed of by the President are set forth in the following table:

Authorized Stockpile Disposals

Bauxite	40,000 short tons
Chromium Metal	3,512 short tons
Iridium	25,140 troy ounces
Jewel Bearings	30,273,221 pieces
Manganese Ferro HC	209,074 short tons
Palladium	11 troy ounces
Quartz Crystal	216,648 pounds
Tantalum Metal Ingot	120,228 pounds contained
Tantalum Metal Powder	36,020 pounds contained
Thorium Nitrate	600,000 pounds

(b) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(c) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

SEC. 3304. REVISION OF LIMITATIONS ON REQUIRED DISPOSALS OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) PUBLIC LAW 105-261.—Section 3303 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note) is amended—

(1) in subsection (a)—

(A) by striking “the amount of—” and inserting “total amounts not less than—”;

(B) by striking “and” at the end of paragraph (3); and

(C) by striking paragraph (4) and inserting the following new paragraphs:

“(4) \$760,000,000 by the end of fiscal year 2005; and

“(5) \$770,000,000 by the end of fiscal year 2011.”; and

(2) in subsection (b)(2), by striking “receipts in the amounts specified in subsection (a)” and inserting “receipts in the total amount specified in subsection (a)(5)”.

(b) PUBLIC LAW 105-85.—Section 3305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking “amounts equal to—” and inserting “total amounts not less than—”; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

“(2) The President may not dispose of cobalt under this section in fiscal year 2006 in excess of the disposals necessary to result in receipts during that fiscal year in the total amount specified in subsection (a)(5).”.

(c) PUBLIC LAW 104-201.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking “amounts equal to—” and inserting “total amounts not less than—”; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

“(2) The President may not dispose of materials under this section during the 10-fiscal year period referred to in subsection (a)(2) in excess of the disposals necessary to result in receipts during that period in the total amount specified in such subsection.”.

SEC. 3305. ACCELERATION OF REQUIRED DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.

Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 50 U.S.C. 98d note), as amended by section 3304(b) of this Act, is amended—

(1) in paragraph (1), by striking “2003” and inserting “2002”;

(2) in paragraph (2), by striking “2004” and inserting “2003”;

(3) in paragraph (3), by striking “2005” and inserting “2004”;

(4) in paragraph (4), by striking “2006” and inserting “2005”; and

(5) in paragraph (5), by striking "2007" and inserting "2006".

**SEC. 3306. RESTRICTION ON
DISPOSAL OF MANGANESE FERRO.**

(a) TEMPORARY QUANTITY RESTRICTIONS.—During fiscal years 2002 through 2005, the disposal of manganese ferro in the National Defense Stockpile may not exceed the following quantities:

(1) During fiscal year 2002, 25,000 short tons of all grades of manganese ferro.

(2) During fiscal year 2003, 25,000 short tons of high carbon manganese ferro of the highest grade.

(3) During each of the fiscal years 2004 and 2005, 50,000 short tons of high carbon manganese ferro of the highest grade.

(b) CONFORMING AMENDMENT.—Section 3304 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 629) is repealed.

EXCERPTS FROM THE FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

Public Law 106-398; October 30, 2002

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) **TRANSFER AUTHORITY.** -To the extent provided in appropriations Acts, not more than \$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 2001 in amounts as follows:

- (1) For the Army, \$50,000,000.
- (2) For the Navy, \$50,000,000.
- (3) For the Air Force, \$50,000,000.

(b) **TREATMENT OF TRANSFERS:** Amounts transferred under this section -

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**-The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

TITLE XXXIII-NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) **OBLIGATION OF STOCKPILE FUNDS.**-During fiscal year 2001, the National Defense Stockpile Manager may obligate up to \$71,000,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.** -The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the

National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS.** -The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. INCREASED RECEIPTS UNDER PRIOR DISPOSAL AUTHORITY.

Section 3303(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2263; 50 U.S.C. 98d note) is amended by striking "\$590,000,000" and inserting "\$720,000,000".

SEC. 3303. DISPOSAL OF TITANIUM.

(a) **DISPOSAL REQUIRED.** -Notwithstanding any other provision of law, the President shall, by September 30, 2010, dispose of 30,000 short tons of titanium contained in the National Defense Stockpile.

(b) **TREATMENT OF RECEIPTS.** -Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), of the funds received as a result of the disposal of titanium under subsection (a), \$6,000,000 shall be transferred to the American Battle Monuments Commission for deposit in the fund established under section 2113 of title 36, United States Code, for the World War II memorial authorized by section 1 of Public Law 103-32 (107 Stat. 90), and the remainder shall be deposited into the Treasury as miscellaneous receipts.

(c) **WORLD WAR II MEMORIAL.** -(1) The amount transferred to the American Battle Monuments Commission under subsection (b) shall be used to complete all necessary requirements for the design of, ground breaking for, construction of, maintenance of, and dedication of the World War II memorial. The Commission shall determine how the amount shall be apportioned among such purposes.

(2) Any funds not necessary for the purposes set forth in paragraph (1) shall be transferred to and deposited in the general fund of the Treasury.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY. -The disposal authority provided in

subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

**EXCERPTS FROM THE DEPARTMENT
OF DEFENSE APPROPRIATIONS ACT, 2001
Public Law 106-259; August 9, 2000**

Title II authorizes \$150 million to be transferred from the National Defense Stockpile Transaction Fund to the Operation and Maintenance Accounts of the Army, Navy, and Air Force (\$50 million each).

Section 8157. The Secretary of Defense may transfer, at no cost, the title/ownership of the alloying material

being stored at the Brownfield site in Bethlehem, Pennsylvania to the Bethlehem Development Corporation: Provided, That the net proceeds from the disposition of the materials are only for the redevelopment of the Brownfield site.

EXCERPTS FROM THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Public Law 106-65; October 5, 1999

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) Transfer Authority - To the extent provided in appropriations Acts, not more than \$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 2000 in amounts as follows:

- (1) For the Army, \$50,000,000.
- (2) For the Navy, \$50,000,000.
- (3) For the Air Force, \$50,000,000.

(b) Treatment of Transfers.--

Amounts transferred under this section -

(1) Shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) Relationship to Other Transfer Authority. - The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

TITLE XXXIV--NATIONAL DEFENSE STOCKPILE

SEC. 3401. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds. -- During fiscal year 2000, the National Defense Stockpile Manager may obligate up to \$78,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations. -- The National Defense Stockpile Manager may obligate amounts in excess of

the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. -- The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3402. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) Disposal Required. -- Subject to subsection (c), the President shall make disposals from the National Defense Stockpile of materials in quantities as follows:

- (1) Beryllium metal, 250 short tons.
- (2) Chromium ferro alloy, 496,204 short tons.
- (3) Chromium metal, 5,000 short tons.
- (4) Palladium, 497,271 troy ounces.

(b) Management of Disposal to Achieve Objectives for Receipts. -- The President shall manage the disposal of materials under subsection (a) so as to result in receipts to the United States in amounts equal to -

- (1) \$10,000,000 during fiscal year 2000;
- (2) \$100,000,000 during the 5-fiscal year period ending September 30, 2004; and
- (3) \$300,000,000 during the 10-fiscal year period ending September 30, 2009.

(c) Minimization of Disruption and Loss.--The President may not dispose of the material under subsection (a) to the extent that the disposal will result in -

- (1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) Disposition of Receipts.--Notwithstanding section 9 of the Strategic and critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury.

(e) Relationship to Other Disposal Authority.--The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) Increased Receipts Under Prior Disposal Authority. -

(1) Section 3303(a)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat 2855; 50 U.S.C. 98d note) is amended by striking "\$612,000,000" and inserting "\$720,000,000".

(2) Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat 2057; 50 U.S.C. 98d note) is amended -

(A) in paragraph (2), by striking "\$30,000,000" and inserting "\$50,000,000";

(B) in paragraph (3), by striking "\$34,000,000" and inserting "\$64,000,000"; and

(C) in paragraph (4), by striking "\$34,000,000" and inserting "\$67,000,000".

(g) Elimination of Disposal Restrictions on Earlier.--Section 3303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 629) is repealed.

SEC. 3403. LIMITATIONS ON PREVIOUS AUTHORITY FOR DISPOSAL OF STOCKPILE MATERIALS.

(a) Public Law 105-261 Authority. - Section 3303(b) of the Strom Thurmond National Defense Authorization

Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2263; 50 U.S.C. 98d note) is amended -

(1) by striking "(b) LIMITATION ON DISPOSAL QUANTITY. - "and inserting "(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)"; and

(2) by adding at the end the following:

"(2) The President may not dispose of materials under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a).".

(b) Public Law 105-85 Authority.--Section 3305(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2058; 50 U.S.C. 98d note) is amended--

(1) by striking "(b) LIMITATION ON DISPOSAL QUANTITY. - " and inserting "(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)"; and

(2) by adding at the end the following:

"(2) The President may not dispose of cobalt under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a).".

(c) Public Law 104-201 Authority.--Section 3303(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2855; 50 U.S.C. 98d note) is amended -

(1) by striking "(b) LIMITATION ON DISPOSAL QUANTITY.--"and inserting "(b) LIMITATIONS ON DISPOSAL AUTHORITY.--(1)"; and

(2) by adding at the end the following: "(2) The President may not dispose of materials under this section in excess of the disposals necessary to result in receipts in the amounts specified in subsection (a)".

**EXCERPTS FROM THE DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 2000
Public Law 106 -79; October 25, 1999**

Title II authorizes \$150 million to be transferred from the National Defense Stockpile Transaction Fund to the

Operation and Maintenance Accounts of the Army, Navy, and Air Force (\$50 million each).

**EXCERPTS FROM THE EMERGENCY
SUPPLEMENTAL APPROPRIATIONS ACT
FOR FISCAL YEAR 1999
Public Law 106-31; May 21, 1999**

Sec. 303.

(a) Disposal Authorized. - Subject to subsection (c), the President may dispose of the material in the National Defense Stockpile specified in the table in subsection (b).

(b) Table.- The total quantity of the material authorized for disposal by the President under subsection (a) is as follows:

Authorized Stockpile Disposal

Material for Disposal	Quantity
Zirconium ore.....	17,383 short dry tons

(c) Minimization of Disruption and Loss.--The President may not dispose of material under subsection (a) to the extent that the disposal will result in-

(1) undue disruption of the usual markets of producers, processors, and consumers of the material proposed for disposal; or

(2) avoidable loss to the United States.

(d) Relationship to Other Disposal Authority.-- in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the material specified in such subsection.

(e) National Defense Stockpile Defined.--In this section, the term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

EXCERPTS FROM THE STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999 Public Law 105-261; October 17, 1998

Entries in ***Bold and Italic*** are changed by Public Law 106-398 or Public Law 106-65

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) **Obligation of Stockpile Funds.** - During fiscal year 1999, the National Defense Stockpile Manager may obligate up to \$83,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) **Additional Obligations.** - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **Limitations.** - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE

(a) **Disposal Required**—Subject to subsection (c), the President shall dispose of materials contained in the national Defense Stockpile and specified in the table in

subsection (b) so as to result in receipts to the United States in the amount of -

\$105,000,000 by the end of fiscal year 1999;

\$460,000,000 by the end of fiscal year 2002;

\$555,000,000 by the end of fiscal year 2003; and

\$720,000,000 by the end of fiscal year 2005.

(b) **Limitation on Disposal Authority.**—(1) The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table: (2) *The President may not dispose of materials under this section in excess of the disposal necessary to result in receipts in the amount specified in subsection (a).*

Material for Disposal	Quantity
Bauxite Refractory	29,000 LCT
Beryllium Metal	100 ST
Chromite Chemical	34,000 SDT
Chromite Refractory	159,000 SDT
Chromium Ferroalloy	125,000 ST
Columbium Carbide Powder	21,372 LB Cb
Columbium Concentrates	1,733,454 LB Cb
Columbium Ferro.....	249,396 LB Cb
Columbium Metal Ingots	161,123 LB Cb
Diamond, Stones	3,000,000 ct
Germanium Metal	28,198 KG
Graphite Natural Ceylon Lump	5,492 ST
Indium.....	14,248 Tr Oz
Mica Muscovite Block.....	301,000 LB
Mica Phlogopite Bloc	30,745 LB
Platinum	439,887 Tr Oz
Platinum—Iridium	4,450 Tr Oz

Platinum—Palladium	750,000 Tr Oz	\$28,000,000 during FY 2001
Tantalum Carbide Powder	22,688 LB Ta	\$31,000,000 during FY 2002
Tantalum Metal Ingots	125,000 LB Ta	\$8,000,000 during FY 2003
Tantalum Metal Powder	125,000 LB Ta	
Tantalum Minerals	1,751,364 LB Ta	
Tantalum Oxide	122,730 LB Ta	
Tungsten Carbide Powder	2,032,896 LB W	
Tungsten Ferro	2,024,143 LB W	
Tungsten Metal Powder	1,898,009 LB W	
Tungsten Ores & Concentrates	76,358,235 LB W	

(c) Minimization of Disruption and Loss.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or (2) avoidable loss to the United States.

(d) Treatment of Receipts.—Notwithstanding section 9 of the Strategic and Critical materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials authorized for disposal under subsection (a) shall be treated as follows:

(1) The following amounts shall be transferred to the Secretary of Health and Human Services, to be credited in the manner determined by the Secretary of Health and Human Services, to be credited in the manner determined by the Secretary to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund:

\$3,000,000 during FY 1999

\$22,000,000 during FY 2000

(2) The balance of the funds received shall be deposited into the general fund of the Treasury.

(e) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials specified in such subsection.

(f) Authorization of Sale.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of \$100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

“(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the government under an administrative decision or negotiated agreement.”.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Public Law 105-85; November 18, 1997
as amended by Public Law 106-65

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term "Market Impact Committee" means the Market Impact Committee established under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-1(c)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds. - During fiscal year 1998, the National Defense Stockpile Manager may obligate up to \$73,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations. - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. DISPOSAL OF BERYLLIUM COPPER MASTER ALLOY IN NATIONAL DEFENSE STOCKPILE.

(a) Disposal Authorization.—Pursuant to section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)), the National Defense Stockpile Manager may dispose of all beryllium copper master alloy from the National Defense Stockpile as part of continued efforts to modernize the stockpile.

(b) Precondition for Disposal.—Before beginning the disposal of beryllium copper master alloy under subsection (a), the National Defense Stockpile Manager shall certify to Congress that the disposal of beryllium copper master alloy will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical material needs of the United States.

(c) Consultation With Market Impact Committee.—In disposing of beryllium copper master alloy under subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of beryllium copper master alloy does not disrupt the domestic beryllium industry.

(d) Extended Sales Contracts.—The National Defense Stockpile Manager shall provide for the use of long-term sales contracts for the disposal of beryllium copper master alloy under subsection (a) so that the domestic beryllium industry can re-absorb this material into the market in a gradual and nondisruptive manner. However, no such contract shall provide for the disposal of beryllium copper master alloy over a period longer than eight years, beginning on the date of the commencement of the first contract under this section.

(e) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

(f) Beryllium Copper Master Alloy Defined.—For purposes of this section, the term "beryllium copper

master alloy” means an alloy of nominally four percent beryllium in copper.

SEC. 3304. DISPOSAL OF TITANIUM SPONGE IN NATIONAL DEFENSE STOCKPILE.

(a) Disposal Required.—Subject to subsection (b), the National Defense Stockpile Manager shall dispose of 34,800 short tons of titanium sponge contained in the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) and excess to stockpile requirements.

(b) Consultation With Market Impact Committee.—In disposing of titanium sponge under subsection (a), the National Defense Stockpile Manager shall consult with the Market Impact Committee to ensure that the disposal of titanium sponge does not disrupt the domestic titanium industry.

(c) Relationship to Other Disposal Authority. The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

SEC. 3305. DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.

(a) Disposal Required. Subject to subsections (b) and (c), the President shall dispose of cobalt contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

- (1) \$20,000,000 during fiscal year 2003;
- (2) \$50,000,000 during fiscal year 2004;
- (3) \$64,000,000 during fiscal year 2005;
- (4) \$67,000,000 during fiscal year 2006; and
- (5) \$34,000,000 during fiscal year 2007.

(b) *Limitation on Disposal Authority.*—(1) The total quantity of cobalt authorized for disposal by the President under subsection (a) may not exceed 14,058,014 pounds. (2) *The President may not dispose of materials under this section in excess of the disposal necessary to result in receipts in the amount specified in subsection (a).*

(c) Minimization of Disruption and Loss. The President may not dispose of cobalt under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of cobalt; or

(2) avoidable loss to the United States.

(d) Treatment of Receipts. Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of cobalt under subsection (a) shall be deposited into the general fund of the Treasury.

(e) Relationship to Other Disposal Authority. The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding materials in the National Defense Stockpile.

SEC. 3307. RETURN OF SURPLUS PLATINUM FROM THE DEPARTMENT OF THE TREASURY.

(a) Return of Platinum to Stockpile. Subject to subsection (b), the Secretary of the Treasury, upon the request of the Secretary of Defense, shall return to the Secretary of Defense for sale or other disposition platinum of the National Defense Stockpile that has been loaned to the Department of the Treasury by the Secretary of Defense, acting as the stockpile manager. The quantity requested and required to be returned shall be any quantity that the Secretary of Defense determines appropriate for sale or other disposition.

(b) Alternative Transfer of Funds. The Secretary of the Treasury, with the concurrence of the Secretary of Defense, may transfer to the Secretary of Defense funds in a total amount that is equal to the fair market value of any platinum requested under subsection (a) and not returned. A transfer of funds under this subsection shall be a substitute for a return of platinum under subsection (a). Upon a transfer of funds as a substitute for a return of platinum, the platinum shall cease to be part of the National Defense Stockpile. A transfer of funds under this subsection shall be charged to any appropriation for the Department of the Treasury and shall be credited to the National Defense Stockpile Transaction Fund.

(c) Responsibility for Costs. The return of platinum under subsection (a) by the Secretary of the Treasury shall be made without the expenditure of any funds available to the Department of Defense. The Secretary of the Treasury shall be responsible for all costs incurred in connection with the return, such as transportation, storage, testing, refining, or casting costs.

EXCERPTS FROM THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 Public Law 104-201 as amended by Public Law 106-65

TITLE XXXIII – NATIONAL DEFENSE STOCKPILE

Subtitle A – Authorization of Disposals and Use of Funds

Sec. 3301. Definitions

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Disposal of certain materials in National
Defense Stockpile.

Subtitle B – Programmatic Change

Sec. 3311. Biennial report on stockpile requirements.

Sec. 3312. Notification Requirements.

Sec. 3313. Importation of strategic and critical
materials.

Subtitle A – Authorization of disposals and Use of Funds

SEC. 3301. DEFINITIONS.

In this title:

(1) The term “National Defense Stockpile” means
the stockpile provided for in section 4 of the Strategic
and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile
Transaction Fund” means the fund in the Treasury of the
United States established under section 9(a) of the
Strategic and Critical Materials Stock Piling Act (50
U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS. –
During fiscal year 1997, the National Defense Stockpile
Manager may obligate up to \$60,000,000 of the funds in
the National Defense Stockpile Transaction Fund for
authorized uses of such funds under section 9(b)(2)).

(b) ADDITIONAL OBLIGATIONS. – The National
Defense Stockpile Manager may obligate amounts in
excess of the amount specified in subsection (a) if the
National Defense Stockpile Manager notifies Congress
that extraordinary or emergency conditions necessitate

the additional obligations. The National Defense
Stockpile Manager may make the additional obligations
described in the notification after the end of the 45-day
period beginning on the date Congress receives the
notification.

(c) LIMITATIONS. – The authorities provided by
this section shall be subject to such limitations as may
be provided in appropriations Acts.

SEC. 3303. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED. – Subject to subsection
(c), the President shall dispose of materials contained in
the National Defense Stockpile and specified in the table
in subsection (b) so as to result in receipts to the United
States in amounts equal to –

(1) \$81,000,000 during fiscal year 1997; and

(2) \$720,000,000 during the ten-fiscal year period
ending September 30, 2006.

(b) LIMITATION ON DISPOSAL QUANTITY. –
The total quantities of materials authorized for disposal
by the President under subsection (a) may not exceed
the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt.....	26,000,000 pounds contained
Columbium Ferro.....	930,911 pounds contained
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Palladium	15,000 troy ounces
Platinum.....	10,000 troy ounces
Rubber, Natural.....	125,138 long tons
Tantalum, Carbide Powder	6,000 pounds contained
Tantalum, Minerals	750,000 pounds contained

Tantalum, Oxide..... 40,000 pounds contained

(c) MINIMIZATION OF DISRUPTION AND LOSS. – The President may not dispose of materials under subsection (a) to the extent that the disposal will result in –

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS. – Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be–

(1) deposited into the general fund of the Treasury; and

(2) to the extent necessary, used to offset the revenues that will be lost as a result of execution of the amendments made by section 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat.658).

(e) QUALIFYING OFFSETTING LEGISLATION. – This section is specifically enacted as qualifying offsetting legislation for the purpose of offsetting fully the estimated revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 658), and as such is deemed to satisfy the conditions in subsection (b) of such section.

(f) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY – The disposal authority provided by law regarding the materials specified in such subsection.

Subtitle B – Programmatic Change

SEC. 3311. BIENNIAL REPORT ON STOCKPILE REQUIREMENTS.

(a) NATIONAL EMERGENCY PLANNING ASSUMPTIONS. – Section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-5) is amended –

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

“(b) Each report under this section shall set forth the national emergency planning assumptions used by the

Secretary in making the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumption to be set forth include assumptions relating to each of the following:

“(1) The length and intensity of the assumed military conflict.

“(2) The military force structure to be mobilized.

“(3) The losses anticipated from enemy action.

“(4) The military, industrial, and essential civilian requirements to support the national emergency.

“(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

“(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

“(7) Civilian austerity measures required during the mobilization period and military conflict.

“(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

“(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements.”

(b) CONFORMING AMENDMENT. – Section 2 of such Act (50 U.S.C. 98a) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

“(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The

National Defense Stockpile is not to be used for economic or budgetary purposes.”

(c) EFFECTIVE DATE. – The amendments made by this section shall take effect on October 1, 1996.

SEC. 3312. NOTIFICATION REQUIREMENTS.

(a) PROPOSED CHANGES IN STOCKPILE QUANTITIES. – Section 3(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(2)) is amended –

(1) by striking out “effective on or after the 30th legislative day following” and inserting in lieu thereof “after the end of the 45-day period beginning on”, and

(2) by striking out the last sentence.

(b) WAIVER OF ACQUISITION AND DISPOSAL REQUIREMENTS. – Section 6(d)(1) of such Act (50

U.S.C. 98e(d)(2)) is amended by striking out “thirty days” and inserting in lieu thereof “45 days.”.

(c) TIME TO BEGIN DISPOSAL. – Section 6(d)(2) of such Act (50 U.S.C. 98e(d)(2)) is amended by striking out “thirty days” and inserting in lieu thereof “45 days”.

SEC. 3313. IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS.

Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended-

(1) by striking out “as a Communist-dominated country or area”; and

(2) by striking out “such Communist-dominated countries or areas” and inserting in lieu thereof “a country or area listed in such general note”.

The National Defense Authorization Act for Fiscal Year 1996

Public Law 104-106

SEC. 3301. DEFINITIONS.

For purposes of this subtitle:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds. - During fiscal year 1996, the National Defense Stockpile Manager may obligate up to \$77,100,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) Additional Obligations. - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations. - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC 3303. DISPOSAL OF CHROMITE AND MANGANESE ORES AND CHROMIUM FERRO AND MANGANESE METAL ELECTROLYTIC

(Sec. 3303 was repealed by public law 106-65)

(a) Domestic Upgrading. In offering to enter into agreements pursuant to any provision of law for the disposal from the National Defense Stockpile of chromite and manganese ores or chromium ferro and

manganese metal electrolytic, the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) Domestic Ferroalloy Upgrader Defined. For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or chromium ferro and manganese metal electrolytic; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

SEC. 3304. RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO

(a) Disposal of Lower Grade Material First. The President may not dispose of high carbon manganese ferro in the National Defense Stockpile that meets the National Defense Stockpile classification of Grade One, Specification 30(a), as revised on May 22, 1992, until completing the disposal of all manganese ferro in the National Defense Stockpile that does not meet such classification. The President may not reclassify manganese ferro in the National Defense Stockpile after the date of the enactment of this Act.

(b) Requirement for Remelting by Domestic Ferroalloy Producers. Manganese ferro in the National Defense Stockpile that does not meet the classification specified in subsection (a) may be sold only for remelting by a domestic ferroalloy producer unless the President determines that a domestic ferroalloy producer is not available to acquire the material.

(c) Domestic Ferroalloy Upgrader Defined. For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade manganese ores of metallurgical grade or manganese ferro; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

**SEC 3305 TITANIUM INITIATIVE TO
SUPPORT BATTLE TANK UPGRADE
PROGRAM**

During each of the fiscal years 1996 through 2003, the Secretary of Defense shall transfer from stocks of the National Defense Stockpile up to 250 short tons of

titanium sponge to the Secretary of the Army for use in the weight reduction portion of the main battle tank upgrade program. Transfers under this section shall be without charge to the Army, except that the Secretary of the Army shall pay all transportation and related costs incurred in connection with the transfer.

APPENDIX E: NATIONAL DEFENSE STOCKPILE INVENTORY

STOCKPILE INVENTORY

The Stockpile inventory quantities shown in Table 5 of this appendix include both stockpile and non-stockpile grade materials. Although non-stockpile grade materials do not meet current purchase specifications for Stockpile materials, they may be credited towards the goals until they can be sold or upgraded.

Stockpile inventory quantities shown in Table 5 do not include quantities of materials that have been sold but have not yet been shipped from Stockpile depots. Table 6 lists quantities of materials that have been sold but not shipped as of the end of the fiscal year. Inventory quantities of seven materials— Bauxite Refractory, Beryllium Copper Master Alloy, Chromite Chemical, Chromite Refractory, Manganese Electrolytic, Mica MF, Ricinoleic/Sebacic Acid, were depleted by sales during this reporting period.

Stockpile materials on loan are as follows:

Platinum on loan to Lawrence Livermore National Laboratory -- 20,880 troy ounces

Iridium on loan to Lawrence Livermore National Laboratory -- 1,300 troy ounces.

Iridium on loan to U.S. Army Space and Missile Defense Command -- 1,200.264 troy ounces.

Inventory values are based on September 30, 2004 prices at which comparable materials are being traded. In the absence of current trading data, market values are estimated. The market values are not necessarily the amount that would be realized if the materials were sold.

STOCKPILE GOALS

The Stockpile goals shown in Table 5 have been reduced for those materials for which disposal was authorized in the National Defense Authorization Acts for Fiscal Years 1998, 1999, 2000, 2001, and 2002. For those materials or family groups the goals are derived by subtracting new legislative disposal authority from the lower of either the goal in effect or the inventory quantity on the date the new disposal was authorized by the Congress.

FAMILY GROUPINGS OF MATERIALS

When the Stockpile contains more than one form of a primary material, the inventory group may include the different forms of the material.

**TABLE 5: STOCKPILE GOALS AND INVENTORY
STATUS FOLLOWING THE ENACTMENT OF
PUBLIC LAW 107-107**
Inventory Quantities and Market Values as of
September 30, 2004. Goals effective 12/28/01 following
the enactment of FY 2002 Authorization Act.
(Millions of Dollars)

Material	Unit	Goal	Quantity	Value (\$)	Excess
1. Aluminum Oxide					
Aluminum Oxide Abrasive Grain	ST		9,137	\$3.138	9,137

**TABLE 3: Fiscal Year 2004 Sales
Defense National Stockpile Center (Continued)**

Material	Unit	Quantity	Value
(Foreign Military Sales Surcharge Offset Program PL 104-210)			
HHS & Treasury General Fund Sales Program Transaction Fund Account #3			
Chromite, Chemical	SDT	34,747.00	\$704,669.16
Chromite, Refractory	SDT	90,944.00	\$2,537,338.00
Columbium Concentrates	LB Cb	226,856.00	*
Columbium, Metal Ingot	LB Cb	20,006.00	\$304,491.44
Platinum - Palladium	Tr Oz	2,000.00	\$412,000.00
Tantalum, Minerals	LB Ta	355,555.00	\$12,220,978.43
Tantalum Oxide	LB Ta	20,455.81	\$531,851.13
Tungsten, Ores & Concentrates	LB W	687,472.00	\$1,974,853.56
Subtotal: Transaction Fund			\$18,686,181.72
(Health & Human Services & Treasury General Fund PL 105-261)			
Spectrum Sales Program Transaction Fund Account #4			
Beryllium Metal	ST	30.00	\$4,545,600.00
Chromium, Ferro High Carbon	ST	49,423.57	\$39,085,934.16
Chromium, Ferro Low Carbon	ST	8,528.56	\$11,630,515.85
Platinum - Palladium	Tr Oz	32,300.00	\$8,208,680.00
Subtotal: Transaction Fund			\$63,470,730.01
(Spectrum Sales Program PL 106-65)			
WWII Memorial Program Transaction Fund Account #5			
Titanium Sponge	ST	6998.796	\$44,458,851.94
Subtotal: Transaction Fund			\$44,458,851.94
(WW II Memorial Program PL 106-398)			

**TABLE 3: Fiscal Year 2004 Sales
Defense National Stockpile Center (Continued)**

Material	Unit	Quantity	Value
Cobalt Post FMS Program Transaction Fund Account #6			
Cobalt	LB Co	2,885,031.00	\$52,853,129.83
Subtotal: Transaction Fund (Cobalt Post FMS Program PL 105-85)			\$52,853,129.83
Total Sales			\$497,074,808.71
<p>Notes:</p> <p>* No value obtained as this material was contained within the Tantalum minerals.</p> <ol style="list-style-type: none"> 1. <i>The Principal Sales Program Transaction Fund Account</i> consists of all commodities authorized for sale that are not specifically earmarked for any particular revenue goal. However, revenues from the Principal Program are used to fund NDS operations and management by the Defense Logistics Agency. 2. <i>The Foreign Military Sales (FMS) Program Transaction Fund Account</i> authorizes the sale of specific quantities of 11 NDS commodities as offsets to fund the FMS program over a ten-year period ending September 30, 2006. 3. <i>The Health and Human Services (HHS) and Treasury General Fund (TGF) Program Account</i> authorizes the transfer to the Department of Health and Human Services of revenues from the sale of specific quantities of 27 NDS commodities. Starting in Fiscal Year 1999 and extending for ten years, these revenues are to be used by HHS for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Trust Fund. After specific fiscal year revenues are transferred to HHS, any remaining monies are transferred to the General Fund of the Treasury. 4. <i>The Spectrum Sales Program Transaction Fund Account</i> authorizes the sale of specific quantities of four NDS commodities. Starting in Fiscal Year 2000 and extending for fourteen years, these revenues are to reclaim certain radio frequencies that are reserved for DoD but were to be surrendered for civilian use, and to fund various military personnel benefit programs. 			

**TABLE 3: Fiscal Year 2004 Sales
Defense National Stockpile Center (Continued)**

Material	Unit	Quantity	Value
5. <i>The WWII Memorial and MILPERS Benefit Program Transaction Fund Account</i> authorized the sale of 30,000 short tons of titanium contained in the National Defense Stockpile by September 30, 2010. During Fiscal Year 2001 and 2002, \$6 million was transferred to the American Battle Monument Commission for deposit in the fund established for the World War II Memorial and the remainder is being deposited in the General Fund of the Treasury.			
6. <i>The Cobalt Post FMS Program Fund Account</i> authorized the sale of 14,058,014 pounds of cobalt contained in the National Defense Stockpile by September 30, 2006. Receipts are to be deposited in the General Fund of the Treasury.			

III. FINANCIAL STATUS OF THE DEFENSE NATIONAL STOCKPILE TRANSACTION FUND

OVERVIEW

The Fiscal Year 2004 Transaction Fund financial status (Table 4) portrays the cash and obligations activity beginning October 1, 2002 through September 30, 2004. All proceeds from the sale of excess materials (reimbursements collected) are posted in the Transaction Fund. The Table also shows the existing obligations against the Transaction Fund, as well as the remaining unobligated, available cash balance.

**TABLE 4: Financial Status of The
Defense National Stockpile
Transaction Fund – October 1, 2002 to
September 30, 2004
(Millions of Dollars)**

Transaction	FY 03	FY 04
Beginning Treasury Cash Balance	661.1	762.1
Reimbursements Collected	291.9	493.0
Available for Obligation	953.0	1,255.1
Transfers		
Transfers to FMS/Treasury/HHS/WWII	(116.6)	(78.7)
DNSC Operations		
Obligated in FY (CY & Prior Year Adjustments)	(74.3)	(71.9)
Available Cash Balance	762.1	1,104.5

Focusing on the Fiscal Year 2004 column, there were \$493.0 million collected in reimbursements, including \$343.7 million from Fiscal Year 2004 sales. The remaining reimbursements collected are from prior year sales. Transfers to Con-

gressionally mandated programs totaled \$78.7 million. In addition, \$71.9 million were obligated against both the current year and prior years' authority to support DNSC operations. This leaves an available cash balance of \$1,104.5 million. All data shown in Table 4 have been taken from the official accounting records as reported to the United States Treasury by the Defense Finance and Accounting Service.

APPENDIX A: STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT (50 U.S.C. 98 et seq.)

SEC. 1. This Act may be cited as the "Strategic and Critical Materials Stock Piling Act."

Findings And Purpose

SEC. 2. (a) The Congress finds that the natural resources of the United States in certain strategic and critical materials are deficient or insufficiently developed to supply the military, industrial, and essential civilian needs of the United States for national defense.

(b) It is the purpose of this Act to provide for the acquisition and retention of stocks of certain strategic and critical materials and to encourage the conservation and development of sources of such materials within the United States and thereby to decrease and to preclude, when possible, a dangerous and costly dependence by the United States upon foreign sources for supplies of such materials in times of national emergency.

(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

Materials to be Acquired: Presidential Authority and Guidelines

SEC. 3. (a) Subject to subsection (c) of this section, the President shall determine from time to time (1) which materials are strategic and critical materials for the purposes of this Act, and (2) the quality and quantity of each such material to be acquired for the purposes of this Act and the form in which each such material shall be acquired and stored. Such materials when acquired, together with the other materials described in section 4 of this Act, shall constitute and be collectively known as the National Defense Stockpile (hereinafter in this Act referred to as the "stockpile").

(b) The President shall make the determinations required to be made under subsection (a) on the basis of the principles stated in section 2(c).

(c)(1) The quantity of any material to be stockpiled under this Act, as in effect on September 30, 1987, may be changed only as provided in this subsection or as otherwise provided by law enacted after December 4, 1987.

(2) The President shall notify Congress in writing of any change proposed to be made in the quantity of any material to be stockpiled. The President may make the change after the end of the 45-day period beginning on the date of the notification. The President shall include a full explanation and justification for the proposed change with the notification.

Materials Constituting the National Defense Stockpile

SEC. 4. (a) The stockpile consists of the following materials:

(1) Materials acquired under this Act and contained in the national stockpile on July 29, 1979.

(2) Materials acquired under this Act after July 29, 1979.

(3) Materials in the supplemental stockpile established by section 1704(b) of the Agricultural Trade Development and Assistance Act of 1954 (as in effect from September 21, 1959, through December 31, 1966) on July 29, 1979.

(4) Materials acquired by the United States under the provisions of section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and transferred to the stockpile by the President pursuant to subsection (f) of such section.

(5) Materials transferred to the United States under section 663 of the Foreign Assistance Act of 1961 (22 U.S.C. 2423) that have been determined to be strategic and critical materials for the purposes of this Act and that are allocated by the President under subsection (b) of such section for stockpiling in the stockpile.

(6) Materials acquired by the Commodity Credit Corporation and transferred to the stockpile under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

(7) Materials acquired by the Commodity Credit Corporation under paragraph (2) of section 103(a) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes," approved August 28, 1954 (7 U.S.C. 1743(a)), and transferred to the stockpile under the third sentence of such section.

(8) Materials transferred to the stockpile by the President under paragraph (4) of section 103(a) of such Act of August 28, 1954.

(9) Materials transferred to the stockpile under subsection (b).

(10) Materials transferred to the stockpile under subsection (c).

(b) Notwithstanding any other provision of law, any material that (1) is under the control of any department or agency of the United States, (2) is determined by the head of such department or agency to be excess to its needs and responsibilities, and (3) is required for the stockpile shall be transferred to the stockpile. Any such transfer shall be made without reimbursement to such department or agency, but all costs required to effect such transfer shall be paid or reimbursed from funds appropriated to carry out this Act.

(c)(1) The Secretary of Energy, in consultation with the Secretary of Defense, shall transfer to the stockpile for disposal in accordance with this Act uncontaminated materials that are in the Department of Energy inventory of materials for the production of defense-related items, are excess to the requirements of the Department for that purpose, and are suitable for transfer to the stockpile and disposal through the stockpile.

(2) The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under this subsection, are suitable for disposal through the stockpile, and are uncontaminated.

Authority for Stockpile Operations

SEC. 5. (a)(1) Except for acquisitions made under the authority of paragraph (3) or (4) of section 6(a) of this Act, no funds may be obligated or appropriated for acquisition of any material under this Act unless funds for such acquisition have been authorized by law. Funds appropriated for such acquisition (and for transportation and other incidental expenses related to such acquisition) shall remain available until expended, unless otherwise provided in appropriation Acts.

(2) If for any fiscal year the President proposes certain stockpile transactions in the annual materials plan submitted to Congress for that year under section 11(b) of this Act and after that plan is submitted the President proposes (or Congress requires) a significant change in any such transaction, or a significant transaction not included in such plan, no amount may be obligated or expended for such transaction during such year until the President has submitted a full statement of the proposed transaction to the appropriate committees of Congress and a period of 45 days has passed from the

date of the receipt of such statement by such committees.

(b) Except for disposals made under the authority of paragraph (3), (4) or (5) of section 6(a) or under section 7(a) of this Act, no disposal may be made from the stockpile unless such disposal, including the quantity of the material to be disposed of, has been specifically authorized by law.

(c) There is authorized to be appropriated such sums as may be necessary to provide for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile. Funds appropriated for such purposes shall remain available to carry out the purposes for which appropriated for a period of two fiscal years, if so provided in appropriation Acts.

Stockpile Management

SEC. 6. (a) The President shall —

(1) acquire the materials determined under section 3(a) to be strategic and critical materials;

(2) provide for the proper storage, security, and maintenance of materials in the stockpile;

(3) provide for the upgrading, refining or processing of any material in the stockpile (notwithstanding any intermediate stockpile quantity established for such material) when necessary to convert such material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency;

(4) provide for the rotation of any material in the stockpile when necessary to prevent deterioration or technological obsolescence of such material by replacement of such material with an equivalent quantity of substantially the same material or better material;

(5) subject to the notification required by subsection (d)(2) of this section, provide for the timely disposal of materials in the stockpile that (A) are excess to stockpile requirements, and (B) may cause a loss to the Government if allowed to deteriorate; and

(6) subject to the provisions of section 5(b), dispose of materials in the stockpile the disposal of which is specifically authorized by law.

(b) Except as provided in subsections (c) and (d), acquisition of strategic and critical materials under this Act shall be made in accordance with established Federal procurement practices, and, except as provided in subsections (c) and (d) and in section 7(a), disposal of strategic and critical materials from the stockpile shall

be made in accordance with the next sentence. To the maximum extent feasible—

(1) competitive procedures shall be used in the acquisition and disposal of such materials; and

(2) efforts shall be made in the acquisition and disposal of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

(c)(1) The President shall encourage the use of barter in the acquisition under subsection (a)(1) of this section of strategic and critical materials for, and the disposal under subsection (a)(5) or (a)(6) of this section of materials from, the stockpile when acquisition or disposal by barter is authorized by law and is practical and in the best interest of the United States.

(2) Materials in the stockpile (the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law) shall be available for transfer at fair market value as payment for expenses (including transportation and other incidental expenses) of acquisition of materials, or of upgrading, refining, processing, or rotating materials, under this Act.

(3) Notwithstanding section 3(c) of this Act or any other provision of law, whenever the President provides under subsection (a)(3) of this section for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.

(4) To the extent otherwise authorized by law, property owned by the United States may be bartered for materials needed for the stockpile.

(d)(1) The President may waive the applicability of any provision of the first sentence of subsection (b) to any acquisition of material for, or disposal of material from, the stockpile. Whenever the President waives any such provision with respect to any such acquisition or disposal, or whenever the President determines that the application of paragraph (1) or (2) of such subsection to a particular acquisition or disposal is not feasible, the President shall notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives in writing of the proposed acquisition or disposal at least 45 days before any

obligation of the United States is incurred in connection with such acquisition or disposal and shall include in such notification the reasons for not complying with any provision of such subsection.

(2) Materials in the stockpile may be disposed of under subsection (a)(5) of this section only if such congressional committees are notified in writing of the proposed disposal at least 45 days before any obligation of the United States is incurred in connection with such disposal.

(3) The President may acquire leasehold interests in property, for periods not in excess of twenty years, for storage, security, and maintenance of materials in the stockpile.

Special Disposal Authority of the President

SEC. 7. (a) Materials in the stockpile may be released for use, sale, or other disposition —

(1) on the order of the President, at any time the President determines the release of such materials is required for purposes of the national defense; and

(2) in time of war declared by the Congress or during a national emergency, on the order of any officer or employee of the United States designated by the President to have authority to issue disposal orders under this subsection, if such officer or employee determines that the release of such materials is required for purposes of the national defense.

(b) Any order issued under subsection (a) shall be promptly reported by the President, or by the officer or employee issuing such order, in writing, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

Materials Development and Research

SEC. 8. (a)(1) The President shall make scientific, technologic, and economic investigations concerning the development, mining, preparation, treatment, and utilization of ores and other mineral substances that (A) are found in the United States, or in its territories or possessions, (B) are essential to the national defense, industrial, and essential civilian needs of the United States, and (C) are found in known domestic sources in inadequate quantities or grades.

(2) Such investigations shall be carried out in order to —

(A) determine and develop new domestic sources of supply of such ores and mineral substances;

(B) devise new methods for the treatment and utilization of lower grade reserves of such ores and mineral substances; and

(C) develop substitutes for such essential ores and mineral products.

(3) Investigations under paragraph (1) may be carried out on public lands and, with the consent of the owner, on privately owned lands for the purpose of exploring and determining the extent and quality of deposits of such minerals, the most suitable methods of mining and beneficiating such minerals, and the cost at which the minerals or metals may be produced.

(b) The President shall make scientific, technologic, and economic investigations of the feasibility of developing domestic sources of supplies of any agricultural material or for using agricultural commodities for the manufacture of any material determined pursuant to section 3(a) of this Act to be a strategic and critical material or substitutes therefore.

(c) The President shall make scientific, technologic, and economic investigations concerning the feasibility of —

(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b)) determined pursuant to section 3(a) to be strategic and critical materials; and

(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

(d) The President shall encourage the conservation of domestic sources of any material determined pursuant to section 3(a) to be a strategic and critical material by making grants or awarding contracts for research regarding the development of:

(1) substitutes for such material; or

(2) more efficient methods of production or use of such material.

National Defense Stockpile Transaction Fund

SEC. 9. (a) There is established in the Treasury of the United States a separate fund to be known as the National Defense Stockpile Transaction Fund (hereinafter in this section referred to as the "fund").

(b)(1) All moneys received from the sale of materials in the stockpile under paragraphs (5) and (6) of section 6(a) shall be covered into the fund.

(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(A) The acquisition, maintenance, and disposal of strategic and critical materials under section 6(a).

(B) Transportation, storage, and other incidental expenses related to such acquisition, maintenance, and disposal.

(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

(D) Testing and quality studies of stockpile materials.

(E) Studying future material and mobilization requirements for the stockpile.

(F) Activities authorized under section 15 of this Act.

(G) Contracting under competitive procedures for materials development and research to —

(i) improve the quality and availability of materials stockpiled from time to time in the stockpile; and

(ii) develop new materials for the stockpile.

(H) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

(I) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.

(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the government under an administrative decision or negotiated agreement.

(K) Pay of employees of the National Defense Stockpile program.

(L) Other expenses of the National Defense Stockpile program.

(3) Moneys in the fund shall remain available until expended.

(c) All moneys received from the sale of materials being rotated under the provisions of section 6(a)(4) or disposed of under section 7(a) shall be covered into the

fund and shall be available only for the acquisition of replacement materials.

(d) If, during a fiscal year, the National Defense Stockpile Manager barter materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall —

(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2) of this section; and

(3) not increase or decrease the balance in the fund.

Advisory Committees

SEC. 10. (a) The President may appoint advisory committees composed of individuals with expertise relating to materials in the stockpile or with expertise in stockpile management to advise the President with respect to the acquisition, transportation, processing, refining, storage, security, maintenance, rotation, and disposal of such materials under this Act.

(b) Each member of an advisory committee established under subsection (a) while serving on the business of the advisory committee away from such member's home or regular place of business shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

(c)(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

(2) The Committee shall advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan

submitted to Congress under section 11(b) of this Act, or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

(3) The annual materials plan or the revision of such plan, as the case may be, shall contain—

(A) the views of the Committee on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile;

(B) the recommendations submitted by the Committee under paragraph (2); and

(C) for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.

(4) In developing recommendations for the National Defense Stockpile Manager under paragraph (2), the Committee shall consult from time to time with representatives of producers, processors, and consumers of the types of materials stored in the stockpile.

Reports To Congress

SEC. 11. (a) Not later than January 15 of each year, the President shall submit to the Congress an annual written report detailing operations under this Act. Each such report shall include —

(1) information with respect to foreign and domestic purchases of materials during the preceding fiscal year;

(2) information with respect to the acquisition and disposal of materials under this Act by barter, as provided for in section 6(c) of this Act, during such fiscal year;

(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

(4) information with respect to the research and development activities conducted under sections 2 and 8 of this Act;

(5) a statement and explanation of the financial status of the National Defense Stockpile Transaction Fund and the anticipated appropriations to be made to the fund, and obligations to be made from the fund, during the current fiscal year; and

(6) such other pertinent information on the administration of this Act as will enable the Congress to evaluate the effectiveness of the program provided for

under this Act and to determine the need for additional legislation.

(b)(1) Not later than February 15 of each year, the President shall submit to the appropriate committees of the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years.

(2) Each such report shall include details of all planned expenditures from the National Defense Stockpile Transaction Fund during such period (including expenditures to be made from appropriations from the general fund of the Treasury) and of anticipated receipts from proposed disposals of stockpile materials during such period. Each such report shall also contain details regarding the materials development and research projects to be conducted under section 9(b)(2)(G) of this Act during the fiscal years covered by the report. With respect to each development and research project, the report shall specify the amount planned to be expended from the fund, the material intended to be developed, the potential military or defense industrial applications for that material, and the development and research methodologies to be used.

(3) Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2) of this Act, that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2) of this Act, as appropriate.

Definitions

SEC. 12. For the purposes of this Act:

(1) The term "strategic and critical materials" means materials that (A) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (B) are not found or produced in the United States in sufficient quantities to meet such need.

(2) the term "national emergency" means a general declaration of emergency with respect to the national defense made by the President or by the Congress.

Importation Of Strategic And Critical Materials

SEC. 13. The President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed in general note 3(b) of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of a country or area listed in such general note is not prohibited by any provision of law.

Biennial Report on Stockpile Requirements

SEC. 14. (a) Not later than January 15 of every other year, the Secretary of Defense shall submit to Congress a report on stockpile requirements. Each such report shall include —

(1) the Secretary's recommendations with respect to stockpile requirements; and

(2) the matters required under subsection (b).

(b) Each report under this section shall set forth the national emergency planning assumptions used by the Secretary in making the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumptions to be set forth include assumptions relating to each of the following:

(1) The length and intensity of the assumed military conflict.

(2) The military force structure to be mobilized.

(3) The losses anticipated from enemy action.

(4) The military, industrial, and essential civilian requirements to support the national emergency.

(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

(7) Civilian austerity measures required during the mobilization period and military conflict.

(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements.

(e) The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.

Development of Domestic Sources

SEC. 15. (a) Subject to subsection (c) and to the extent the President determines such action is required for the national defense, the President shall encourage the development of domestic sources for materials determined pursuant to section 3(a) to be strategic and critical materials —

(1) by purchasing, or making a commitment to purchase, strategic and critical materials of domestic origin when such materials are needed for the stockpile; and

(2) by contracting with domestic facilities, or making a commitment to contract with domestic facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage and subsequent disposition.

(b) A contract or commitment made under subsection (a) may not exceed five years from the date of the contract or commitment. Such purchases and commitments to purchase may be made for such quantities and on such terms and conditions, including

advance payments, as the President considers to be necessary.

(c)(1) Descriptions of proposed transactions under subsection (a) shall be included in the appropriate annual materials plan submitted to Congress under section 11(b). Changes to any such transaction or the addition of a transaction not included in such plan, shall be made in the manner provided by section 5(a)(2).

(2) The authority of the President to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund are adequate to meet such obligations. Payments required to be as a result of obligations incurred under this section shall be made from amounts in the fund.

(d) The authority of the President under subsection (a) includes the authority to pay—

(1) the expenses of transporting materials, and

(2) other incidental expenses related to carrying out such subsection.

(e) The President shall include in the reports required under section 11(a) information with respect to activities conducted under this section.

National Defense Stockpile Manager

SEC. 16. (a) The President shall designate a single Federal office to have responsibility for performing the functions of the President under this Act, other than under sections 7 and 13. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

(b) The individual holding the office designated by the President under subsection (a) shall be known for purposes of functions under this Act as the "National Defense Stockpile Manager."

(c) The President may delegate functions of the President under this Act (other than under sections 7 and 13) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order. The President may not delegate functions of the President under sections 7 and 13.

United States Code Citations

Section 2 — 50 U.S.C. 98a
Section 3 — 50 U.S.C. 98b
Section 4 — 50 U.S.C. 98c
Section 5 — 50 U.S.C. 98d
Section 6 — 50 U.S.C. 98e
Section 7 — 50 U.S.C. 98f
Section 8 — 50 U.S.C. 98g

Section 10 — 50 U.S.C. 98h-1
Section 11 — 50 U.S.C. 98h-2
Section 12 — 50 U.S.C. 98h-3
Section 13 — 50 U.S.C. 98h-4
Section 14 — 50 U.S.C. 98h-5
Section 15 — 50 U.S.C. 98h-6
Section 16 — 50 U.S.C. 98h-7

APPENDIX B: RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Public Law 108-375

October 28, 2004

TITLE XXXIII--NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revision of earlier authority to dispose of certain materials in National Defense Stockpile.

Sec. 3303. Disposal of ferromanganese.

Sec. 3304. Prohibition on storage of mercury at certain facilities.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS- During fiscal year 2005, the National Defense Stockpile Manager may obligate up to \$59,700,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS- The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS- The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISION OF EARLIER AUTHORITY TO DISPOSE OF CERTAIN

MATERIALS IN NATIONAL DEFENSE STOCKPILE.

Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

“(4) \$785,000,000 by the end of fiscal year 2005; and

“(5) \$870,000,000 by the end of fiscal year 2009.”

SEC. 3303. DISPOSAL OF FERROMANGANESE.

(a) DISPOSAL AUTHORIZED- The Secretary of Defense may dispose of up to 50,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2005.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL- (1) If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2005, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(2) If the Secretary completes the disposal of the total quantity of additional ferromanganese authorized for disposal by paragraph (1) before September 30, 2005, the Secretary may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION- The Secretary of Defense may dispose of ferromanganese under the authority of paragraph (1) or (2) of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal under the applicable paragraph, that--

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) DELEGATION OF RESPONSIBILITY- The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) NATIONAL DEFENSE STOCKPILE DEFINED- In this section, the term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3304. PROHIBITION ON STORAGE OF MERCURY AT CERTAIN FACILITIES.

(a) PROHIBITION- During fiscal year 2005, the Secretary of Defense may not store mercury from the National Defense Stockpile at any facility that is not owned or leased by the United States.

(b) NATIONAL DEFENSE STOCKPILE DEFINED- In this section, the term 'National Defense Stockpile' means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

**APPENDIX C: DEFENSE AUTHORIZATION ACT FOR
FISCAL YEAR 2004
Public Law 108-136
September 9, 2003**

**SEC. 3301. AUTHORIZED USES OF
NATIONAL DEFENSE STOCKPILE
FUNDS.**

(a) **OBLIGATION OF STOCKPILE FUNDS** - During fiscal year 2004, the National Defense Stockpile Manager may obligate up to \$69,701,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS** - The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) **LIMITATIONS** - The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3302. REVISIONS TO REQUIRED
RECEIPT OBJECTIVES PREVIOUSLY
AUTHORIZED DISPOSALS FROM
NATIONAL DEFENSE STOCKPILE.**

Section 3402 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 972; 50 U.S.C. 98d note) is amended --

(1) in subsection (b) --

(A) by striking "and" at the end of paragraph (2); and

(B) by striking paragraph (3) and inserting the following new paragraphs:

"(3) \$340,000,000 before the end of fiscal year 2005; and

"(4) \$450,000,000 before the end of fiscal year 2013."; and

(2) in subsection (e), by adding at the end of the following new sentence: "The disposal of materials under this section to achieve the receipt levels specified in subsection (b), within the time periods specified in subsection, shall be in addition to any routine and ongoing disposals used to fund operations of the National Defense Stockpile."

II. STOCKPILE ACQUISITION, UPGRADING, AND DISPOSAL PROGRAMS

ANNUAL MATERIALS PLAN

The Annual Materials Plan (AMP) lists the maximum quantity of each commodity that may be sold or bought by the Department of Defense (DoD) in a given fiscal year. Before any materials may be bought or sold, the Congress must enact specific enabling legislation. After receiving congressional authority, DoD develops the AMP, which is submitted to the Congress by February 15th of each year. Prior to submission, the AMP is coordinated with the Market Impact Committee, an interagency committee that advises DoD on the projected domestic and foreign economic effects of the proposed Stockpile transactions. The AMP is effective on the first day of the fiscal year. If DoD proposes significant changes to the AMP during the fiscal year, a revised AMP is submitted to the Congress. The revisions become effective 45 calendar days after their submission. The revised Fiscal Year 2004 AMP is shown in Table 1 on page 5, and the Proposed Fiscal Year 2005 AMP is shown in Table 2 on page 8.

ACQUISITIONS AND UPGRADES

There were no commodity acquisitions or upgrades in Fiscal Years 1998 through 2004. Chart 2 presents data on previous years' acquisitions and upgrades.

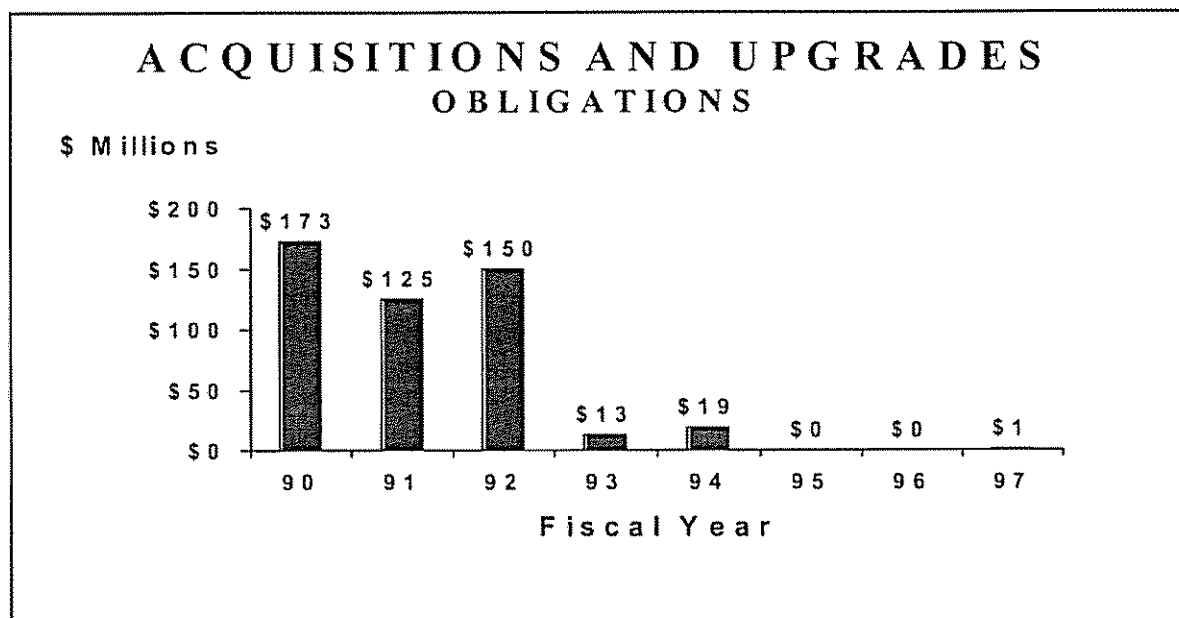


Chart 2 Acquisitions and Upgrades (Obligations)

SALES OF EXCESS INVENTORY

The Stockpile sold \$497 million of excess materials during Fiscal Year 2004. Sales for Fiscal Years 1995 through 2004, totalling \$4.68 billion, are shown in Chart 3.

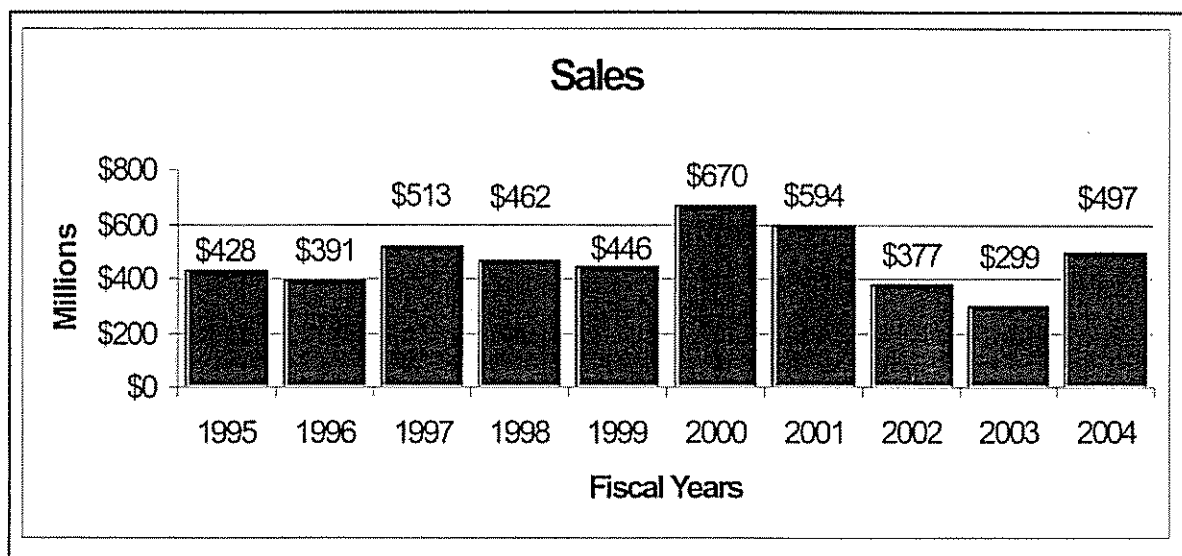


Chart 3 Prior Year Sales

Table 3 on page 10 lists all Stockpile sales for Fiscal Year 2004. A summary of these sales is shown in Chart 4. Dollar amounts in Chart 4 on page 5 are based on awarded contracts. The top selling materials were Tin, Cobalt, Ferrocromium High Carbon, Titanium Sponge, Ferromanganese High Carbon, Lead, Zinc, Ferrocromium Low Carbon, Tantalum Minerals, and Palladium. Together they accounted for \$456 million and 92 percent of total sales.

Inventory quantities of seven materials – Bauxite Refractory, Beryllium Copper Master Alloy, Chromite Chemical, Chromite Refractory, Manganese Metal Electrolytic, Mica Muscovite Film, Ricinoleic/Sebacic Acid – were depleted by sales or disposal during this reporting period.

ENVIRONMENTAL ACTIVITIES

During Fiscal Year 2004, DNSC managed the following environmental projects:

- Mercury Management Environmental Impact Statement (MMEIS) status process: The goal is to plan for the long term (additional 40 years) management of DNSC's 4436 metric ton mercury inventory. The Final MMEIS was published in March, 2004, followed in April by the Record of Decision (ROD). The ROD announced DNSC's decision to consolidate the mercury at a single location and to proceed with the procurement of a site that would represent the "best value to the government." In September, 2004, as required by the Consolidated Appropriations Act, P.L. 108-109, a report on the

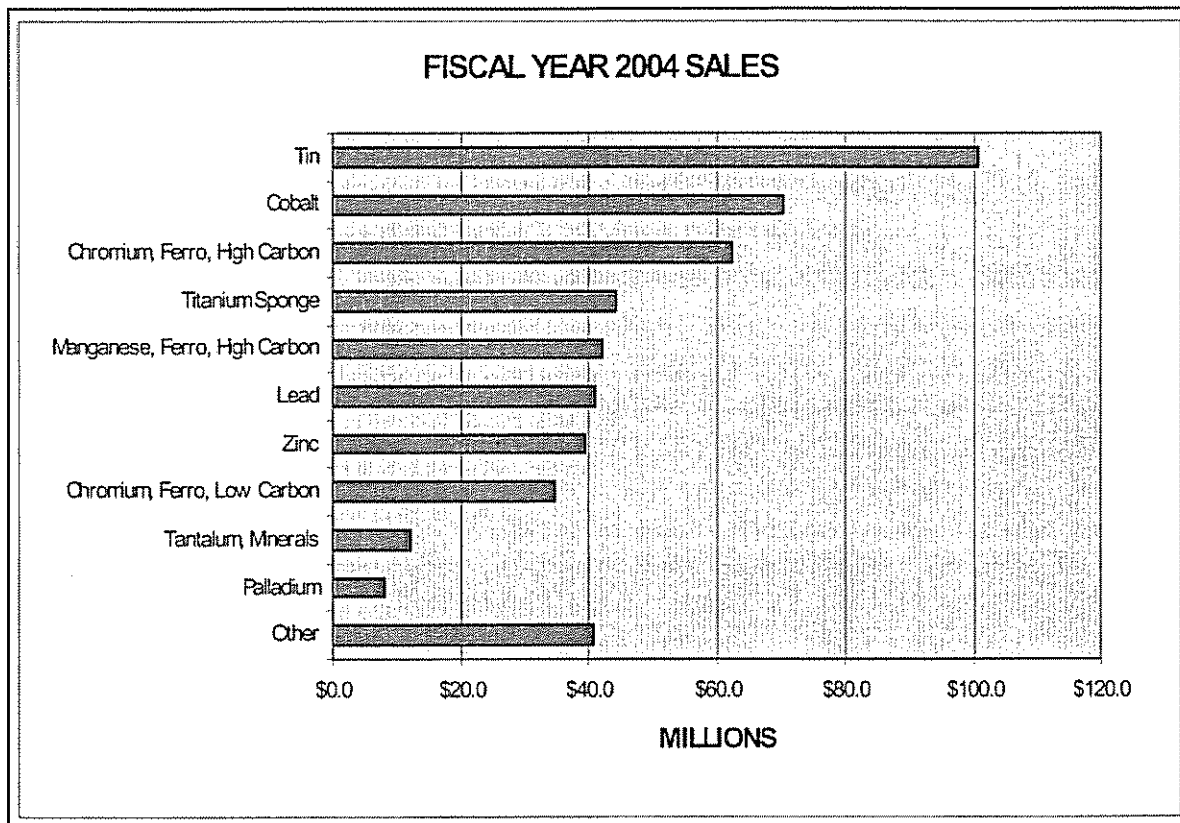


Chart 4 Fiscal Year 2004 Sales

consolidation of mercury was delivered to Congress. In 2005, DNSC plans to solicit, negotiate and procure the services of a consolidation facility to store Stockpile mercury.

- Thorium Nitrate (ThN) Disposition Project: The goal of this project is to achieve a safe and cost effective disposal of 7 million pounds of Stockpile ThN that is excess to the needs of the Department of Defense. In September, 2004, DNSC began to ship Stockpile ThN to the Department of Energy (DoE) Nevada Test Site (NTS) for permanent disposal. Upon receipt at NTS, DoE will assume all liability for this material. Shipment of ThN will continue until late summer 2005.

TABLE 1: Fiscal Year 2004 Revised Annual Materials Plan (AMP)

Material	Unit	FY2004 Quantity	FY2004 Revisions
Aluminum Oxide, Abrasive	ST	6,000	
Antimony	ST	0	

**TABLE 1: Fiscal Year 2004 Revised Annual Materials
Plan (AMP) (Continued)**

Material	Unit	FY2004 Quantity	FY2004 Revisions
Bauxite, Metallurgical Jamaican	LDT	0	
Bauxite, Refractory	LCT	43,000 ^a	
Beryl Ore	ST	4,000 ^a	
Beryllium Metal	ST	40	
Beryllium Copper Master Alloy	ST	1,200 ^a	
Cadmium	LB	400,000 ^a	
Celestite	SDT	12,794 ^a	
Chromite, Chemical	SDT	100,000 ^a	
Chromite, Metallurgical	SDT	0	
Chromite, Refractory	SDT	100,000 ^a	
Chromium, Ferro	ST	150,000	110,000
Chromium, Metal	ST	500	
Cobalt	LB Co	6,000,000	
Columbium Concentrates	LB Cb	560,000	
Columbium Metal Ingots	LB Cb	20,000	
Diamond Stone	ct	600,000 ^a	
Fluorspar, Acid Grade	SDT	12,000 ^a	
Fluorspar, Metallurgical Grade	SDT	60,000 ^a	
Germanium	KG	8,000	
Graphite	ST	2,000 ^a	
Iodine	LB	1,000,000	
Jewel Bearings	PC	82,051,558 ^a	
Kyanite	SDT	0	50
Lead	ST	60,000	
Manganese, Battery Grade, Natural	SDT	30,000	

**TABLE 1: Fiscal Year 2004 Revised Annual Materials
Plan (AMP) (Continued)**

Material	Unit	FY2004 Quantity	FY2004 Revisions
Manganese, Battery Grade, Synthetic	SDT	3,011 ^a	
Manganese, Chemical Grade	SDT	40,000	
Manganese, Ferro	ST	50,000	
Manganese, Metal, Electrolytic	ST	2,000	
Manganese, Metallurgical Grade	SDT	250,000 ^a	
Mica, All	LB	5,000,000 ^a	
Palladium	Tr Oz	200,000 ^{ac}	
Platinum	Tr Oz	25,000 ^a	
Platinum - Iridium	Tr Oz	6,000	
Quartz Crystals	Lb	150,000 ^a	
Quinidine	Oz	2,211,122 ^a	
Rubber	LT	0	
Sebacic Acid	LB	600,000	
Silver (Coins)	Tr Oz	0	
Talc	ST	1,000 ^a	
Tantalum Carbide Powder	LB Ta	4,000 ^a	
Tantalum Metal Ingots	LB Ta	40,000 ^a	
Tantalum Metal Powder	LB Ta	40,000 ^a	
Tantalum Minerals	LB Ta	500,000	
Tantalum Oxide	LB Ta	20,000	
Thorium	LB	7,100,000 ^{ab}	
Tin	MT	12,000	
Titanium Sponge	ST	7,000	
Tungsten Ferro	LB W	300,000	
Tungsten Metal Powder	LB W	300,000	

TABLE 1: Fiscal Year 2004 Revised Annual Materials Plan (AMP) (Continued)

Material	Unit	FY2004 Quantity	FY2004 Revisions
Tungsten Ores & Concentrates	LB W	4,000,000	
Vegetable Tannin, Chestnut	LT	0	250
Vegetable Tannin, Quebracho	LT	50,000	20,000
Vegetable Tannin, Wattle	LT	0	6,500
Zinc	ST	50,000	

- a. Actual quantity will be limited to remaining sales authority or inventory.
- b. The radioactive nature of this material may restrict sales or disposal options. Efforts are underway to determine the environmentally and economically feasible disposition of the material.
- c. Pending legislative authority.

TABLE 2: Proposed Fiscal Year 2005 Annual Materials Plan (AMP)

Material	Unit	FY2005 Quantity
Aluminum Oxide, Abrasive	ST	6,000
Antimony	ST	0
Bauxite, Metallurgical Jamaican	LDT	0
Bauxite, Refractory	LCT	43,000 ^a
Beryl Ore	ST	4,000 ^a
Beryllium Metal	ST	40
Beryllium Copper Master Alloy	ST	1,200 ^a
Celestite	SDT	6,000 ^a
Chromite, Chemical	SDT	100,000 ^a
Chromite, Refractory	SDT	100,000 ^b
Chromium, Ferro	ST	110,000
Chromium, Metal	ST	500
Cobalt	LB Co	6,000,000

**TABLE 2: Proposed Fiscal Year
2005 Annual Materials Plan
(AMP) (Continued)**

Material	Unit	FY2005 Quantity
Columbium Concentrates	LB Cb	560,000
Columbium Metal Ingots	LB Cb	20,000 ^b
Diamond Stone	ct	400,000 ^a
Fluorspar, Acid Grade	SDT	12,000 ^a
Fluorspar, Metallurgical Grade	SDT	60,000 ^a
Germanium	KG	8,000
Iodine	LB	1,000,000
Jewel Bearings	PC	82,051,558 ^a
Kyanite	SDT	0
Lead	ST	60,000 ^a
Manganese, Battery Grade, Natural	SDT	30,000
Manganese, Battery Grade, Synthetic	SDT	3,011 ^a
Manganese, Chemical Grade	SDT	40,000 ^a
Manganese, Ferro	ST	50,000
Manganese, Metal, Electrolytic	ST	2,000 ^a
Manganese, Metallurgical Grade	SDT	250,000 ^a
Mica, All	LB	1,000,000 ^a
Palladium	Tr Oz	100,000 ^b
Platinum	Tr Oz	25,000 ^a
Platinum - Iridium	Tr Oz	6,000
Quartz Crystals	LB	25,000 ^a
Sebacic Acid	LB	600,000 ^a
Talc	ST	1,000 ^a
Tantalum Carbide Powder	LB Ta	4,000 ^a

**TABLE 2: Proposed Fiscal Year
2005 Annual Materials Plan
(AMP) (Continued)**

Material	Unit	FY2005 Quantity
Tantalum Metal Ingots	LB Ta	40,000 ^a
Tantalum Metal Powder	LB Ta	40,000 ^b
Tantalum Minerals	LB Ta	500,000 ^b
Tantalum Oxide	LB Ta	20,000 ^b
Thorium	LB	7,100,000
Tin	MT	12,000
Titanium Sponge	ST	7,000 ^a
Tungsten Ferro	LB W	300,000 ^b
Tungsten Metal Powder	LB W	300,000 ^b
Tungsten Ores & Concentrates	LB W	4,000,000 ^b
Vegetable Tannin, Chestnut	LT	250 ^a
Vegetable Tannin, Quebracho	LT	20,000
Vegetable Tannin, Wattle	LT	6,500 ^a
Zinc	ST	50,000

**TABLE 3: Fiscal Year 2004 Sales
Defense National Stockpile Center**

Material	Unit	Quantity	Value
Principal Sales Program Transaction Fund Account #1			
Aluminum Oxide, Abrasive Grain	ST	6,108.76	\$1,686,152.34
Bauxite, Refractory	LCT	40,795.00	\$3,518,568.75
Beryllium Copper Master Alloy	ST	1,155.00	\$6,483,268.05
Beryl Ore	ST	1,874.96	\$148,121.84
Cadmium	LB	6,841.00	\$2,599.69
Chromite, Chemical	SDT	43,378.00	\$879,705.84

**TABLE 3: Fiscal Year 2004 Sales
Defense National Stockpile Center (Continued)**

Material	Unit	Quantity	Value
Chromium, Ferro, High Carbon	ST	32,192.00	\$23,449,386.47
Chromium, Ferro, Low Carbon	ST	20,125.00	\$23,250,308.90
Chromium, Metal	ST	493.00	\$1,737,804.67
Flourspar, Metallurgical	SDT	3,133.28	\$22,183.62
Iodine	LB	542,489.00	\$3,015,435.64
Iridium	Tr Oz	4,170.00	\$559,836.12
Lead	ST	56,580.00	\$41,075,404.58
Manganese, Battery Grade Natural	SDT	30,201.00	\$971,684.34
Manganese, Chemical Grade	ST	45,198.21	\$731,553.45
Manganese, Ferro High Carbon	ST	56,569.00	\$42,307,303.48
Manganese, Metal Electrolytic	ST	500.00	\$620,310.00
Manganese, Metallurgical Grade	SDT	268,696.59	\$1,331,871.13
Mica PS	LB	37,467.00	\$3,505.57
Sebacic Acid	LB	501,000.00	\$608,715.00
Talc, Block & Lump	ST	36.00	\$5,784.64
Tantalum Metal Capacitor Grade	LB Ta	38,460.00	\$1,687,153.76
Tantalum Metal Ingots	LB Ta	39,773.00	\$2,058,068.02
Tin	MT	10,645.00	\$100,648,875.89
Vegetable Tannin, Quebracho	LT	6,000.00	\$667,350.00
Vegetable Tannin, Wattle	LT	836.00	\$23,397.44
Zinc	ST	42,054.00	\$39,324,623.83
Subtotal: Transaction Fund			\$296,818,973.06
Foreign Military Sales Program Transaction Fund Account #2			
Cobalt	LB Co	1,351,443.76	\$17,631,505.33
Germanium Metal	KG	5,914.00	\$3,155,436.82
Subtotal: Transaction Fund			\$20,786,942.15

STRATEGIC AND CRITICAL MATERIALS REPORT TO THE CONGRESS

DEPARTMENT OF DEFENSE



**Operations under the Strategic
and Critical Materials Stock Piling
Act during the Period
October 2003 through September 2004**

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I. THE STRATEGIC AND CRITICAL MATERIALS STOCKPIILING PROGRAM

OVERVIEW

The Strategic and Critical Materials Stock Piling Act (50 U.S.C. section 98 *et seq.*) mandates that a stockpile of strategic and critical materials (the Stockpile) be maintained to decrease and preclude, where possible, dependence upon foreign sources of supply in times of national emergency. Appendix A of this report provides a copy of the complete Stock Piling Act, as amended. Authority for management of the operational aspects of the National Defense Stockpile has been delegated to the Defense Logistics Agency, Defense National Stockpile Center (DNSC).

STATUS OF THE STOCKPILE INVENTORY

The total National Defense Stockpile (NDS) inventory was valued at \$1.57 billion on September 30, 2004. Chart 1 and Table 5 in Appendix E provide detailed information on the composition of the NDS inventory as of September 30, 2004. The value of the stockpile represents a "price snapshot" as of September 30, 2004.

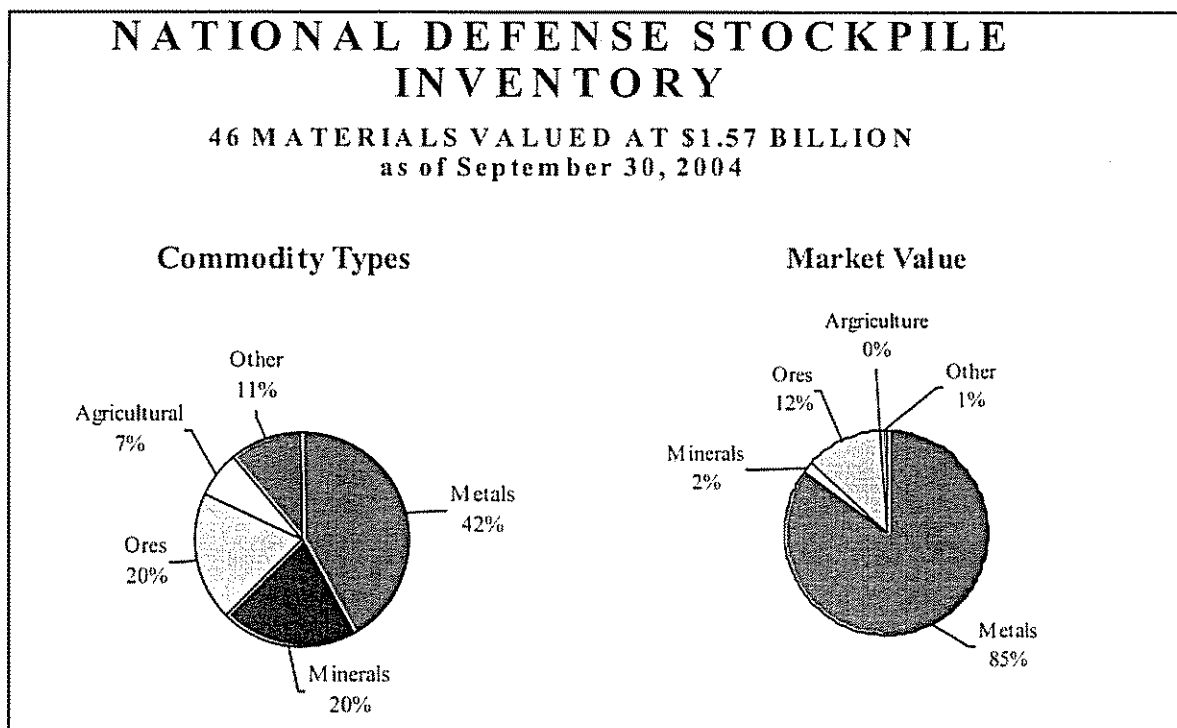


Chart 1 National Defense Stockpile Inventory

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